

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

Anthony O. Longstreet, Sr.,

Case No. 2:21-cv-02227-JAD-BNW

**Plaintiff**

V.

## Clark County, et. al.,

## **Order Dismissing and Closing Case**

## Defendants

Plaintiff Anthony Longstreet brings this civil-rights lawsuit to redress constitutional  
ons that he claims he suffered during his criminal prosecution and appeal in Nevada state  
  
On April 28, 2022, this court dismissed plaintiff's claims with leave to amend by May 26,  
  
<sup>1</sup> The court warned the plaintiff that this case would be dismissed and closed if he failed to  
amended complaint by that deadline.<sup>2</sup> Because plaintiff later filed notice that he had  
d, the court sua sponte extended the deadline to August 12, 2022.<sup>3</sup> Plaintiff neither filed an  
led complaint by that deadline nor moved for an extension of time to do so.

The law permits a district court to dismiss an action based on a party's failure to comply with a court order.<sup>4</sup> In determining whether to dismiss an action on this ground, the court must consider: (1) the public's interest in expeditious resolution of litigation, (2) the court's need to

1 ECF No. 6.

<sup>2</sup> *Id.* at 4.

<sup>3</sup> ECF No 14.

<sup>4</sup> See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint).

1 manage its docket, (3) the risk of prejudice to the defendants, (4) the public policy favoring  
 2 disposition of cases on their merit, and (5) the availability of less drastic alternatives.<sup>5</sup>

3       The first two factors, the public’s interest in expeditiously resolving this litigation and the  
 4 court’s interest in managing its docket, weigh in favor of dismissal of the plaintiff’s claims. The  
 5 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a  
 6 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading  
 7 ordered by the court or prosecuting an action.<sup>6</sup> The fourth factor—the public policy favoring  
 8 disposition of cases on their merits—is greatly outweighed by the factors favoring dismissal.

9       The fifth factor requires the court to consider whether less drastic alternatives can be used  
 10 to correct the party’s failure that brought about the court’s need to consider dismissal.<sup>7</sup> Courts  
 11 “need not exhaust every sanction short of dismissal before finally dismissing a case, but must  
 12 explore possible and meaningful alternatives.”<sup>8</sup> Because this action cannot proceed until and  
 13 unless plaintiff files an amended complaint, the only alternative is to enter a third order setting  
 14 another deadline. But the reality of repeating an ignored order is that it often only delays the  
 15 inevitable and squanders finite resources along the way. The circumstances here do not indicate  
 16 that this case will be an exception: the court already sua sponte extended the deadline by several  
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18<sup>5</sup> *In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting  
 19 *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987)).

20<sup>6</sup> See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

21<sup>7</sup> *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less  
 22 drastic alternatives *before* the party has disobeyed a court order does not satisfy this factor);  
 23 *accord Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the  
 persuasive force of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic  
 alternatives prior to disobedience of the court’s order as satisfying this element[,]” i.e., like the  
 “initial granting of leave to amend coupled with the warning of dismissal for failure to  
 comply[,]” have been “eroded” by *Yourish*).

<sup>8</sup> *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986).

1 months but to no avail. Setting another deadline is not a meaningful alternative given these  
2 circumstances. So the fifth factor favors dismissal.

3 Having thoroughly considered these dismissal factors, I find that they weigh in favor of  
4 dismissal. IT IS THEREFORE ORDERED that **THIS ACTION IS DISMISSED** for failure to  
5 file an amended complaint by the court-ordered deadline, leaving no claims pending. The Clerk  
6 of Court is directed to **ENTER JUDGMENT** accordingly and **CLOSE THIS CASE**. **No other**  
7 **documents may be filed in this now-closed case.**

8 Dated: August 22, 2022

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10 U.S. District Judge Jennifer A. Dorsey

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